

11/04/03 14:01 FAX 856 810 1454

LICATA & TYRRELL

→ PTOAF

001

FACSIMILE COVER SHEET

**RECEIVED
CENTRAL FAX CENTER**

NOV 04 2003

Licata & Tyrrell P.C.

66 E. Main Street
Marlton, New Jersey

Tel: (856) 810-1515
Fax: (856) 810-1454

November 4, 2003

GROUP: 1635

FAX NUMBER: 1-703-872-9307

ATTORNEY DOCKET NO.: RTS-0147

SERIAL NO.: 09/828,344

FILED: April 5, 2001

NUMBER OF PAGES: 9
(including this sheet)

MESSAGE: Attached is an Amendment Transmittal Letter (in duplicate) and
Reply to Restriction Requirement dated October 6, 2003.

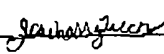
URGENT! PLEASE DELIVER IMMEDIATELY UPON RECEIPT. THANK YOU!

* * * * *

If you have any questions, or did not receive the proper number of pages, or had trouble
during transmission, please call 856-810-1515.

CONFIDENTIALITY NOTICE

The information contained in this facsimile message is legally privileged and confidential, and intended only for the use of the individual(s) and/or entity(ies) named above. If you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or taking of any action in reliance on the contents of the telecopied materials is strictly prohibited and review by any individual other than the intended recipient shall not constitute waiver of the attorney-client privilege. If you have received this transmission in error, please immediately notify us by telephone in order to arrange for the return of the materials. Thank you.

AMENDMENT TRANSMITTAL LETTER (Large Entity)				Docket No. RTS-0147	
Applicant(s): Bennett and Wyatt					
Serial No. 09/828,344	Filing Date April 5, 2001	Examiner James Schultz		Group Art Unit 1635	
Invention: ANTISENSE MODULATION OF PHOSPHOLIPID SCRAMBLASE I EXPRESSION					
<u>TO THE COMMISSIONER FOR PATENTS:</u>					
Transmitted herewith is an amendment in the above-identified application. The fee has been calculated and is transmitted as shown below.					
CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	13 -	20 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	1 -	3 =	0 x	\$86.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1619 <input type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.					
 _____ Signature			Dated: November 4, 2003		
Jane Massey Licata Reg. No. 32,257 Licata & Tyrrell P.C. 66 E. Main Street Marlton, NJ 08053 Tel: 856-810-1515 Fax: 856-810-1454			I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. _____ Signature of Person Mailing Correspondence _____ Typed or Printed Name of Person Mailing Correspondence		
CC:					

RECEIVED
CENTRAL FAX CENTER

NOV 04 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: RTS-0147
Inventors: Bennett and Wyatt
Serial No.: 09/828,344
Filing Date: April 5, 2001
Examiner: James Schultz
Group Art Unit: 1635
Title: Antisense Modulation of Phospholipid
Scramblase I Expression

Certificate of Facsimile Transmission

I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on
the date shown below.

On November 4, 2003

Jane Massey Licata
Jane Massey Licata Registration No. 32,257

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

REPLY TO RESTRICTION REQUIREMENT

This reply is to the Restriction Requirement mailed October 6,
2003, setting a one (1) month statutory period for response.
Please enter the following remarks into the record. No new matter
has been added by this response.

Attorney Docket No.: RTS-0147
Inventors: Bennett and Wyatt
Serial No.: 09/828,344
Filing Date: April 5, 2001
Page 2

REMARKS

Claims 1, 2, 4-10, and 12-15 are pending in the instant application. The pending claims have been subjected to a Restriction Requirement under 35 USC §121 and 37 C.F.R. 1.141, as containing multiple independent sequences, comprising multiple inventions.

Specifically, the Examiner suggests that although all of the sequences encompassed in claim 1 target and modulate expression of the target sequence Phospholipid Scramblase I of SEQ ID NO:3, these sequences are considered to be unrelated. Each sequence encompassed by claim 1 is suggested to be structurally and functionally independent and distinct. The Examiner suggests that each sequence has a unique nucleotide sequence, it is further suggested that each sequence targets a different and specific region of the molecule encoding Phospholipid Scramblase I, and finally the Examiner suggests that each sequence, upon binding to the molecule encoding Phospholipid Scramblase I, functionally modulates the expression of the gene to varying degrees.

The Examiner further suggests that a search of more than one of the claimed sequences presents an undue burden on the Patent and Trademark Office because of the complex nature of the search

Attorney Docket No.: **RTS-0147**
Inventors: **Bennett and Wyatt**
Serial No.: **09/828,344**
Filing Date: **April 5, 2001**
Page 3

required and because a search for art related to one region of the Phospholipid Scramblase I molecule would not reveal art related to another region. The Examiner requires that Applicants elect one target region from claim 1.

Applicants respectfully traverse this restriction requirement.

MPEP 803 states that an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. MPEP 803 further states that if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

MPEP 802.1 defines "independent" as having no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not usable together as disclosed; or (2) process and an apparatus incapable of being used in practicing the process.

MPEP 802.1 defines "distinct" as two or more subjects as disclosed are related, for example, as combination and part

Attorney Docket No.: **RTS-0147**
Inventors: **Bennett and Wyatt**
Serial No.: **09/828,344**
Filing Date: **April 5, 2001**
Page 4

(subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, and are patentable over each other.

Additionally, it has been determined that normally ten sequences are deemed to constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences can be examined in a single application without restriction.

The Examiner acknowledges that the sequences of claim 1 each target and modulate expression of the same target sequence Phospholipid Scramblase I (SEQ ID NO:3). By definition, the sequences cannot be independent because they all target and modulate the same single sequence namely SEQ ID NO:3. Therefore, there is a disclosed and acknowledged relationship between the sequences.

There would be no additional search burden on the Examiner because any search relating to Phospholipid Scramblase I (SEQ ID NO:3) would necessarily identify all of the art relating to all of the sequences recited in claim 1.

Applicants respectfully request reconsideration and withdrawal of the restriction requirement.

Attorney Docket No.: RTS-0147
Inventors: Bennett and Wyatt
Serial No.: 09/828,344
Filing Date: April 5, 2001
Page 5

However, in an earnest effort to be fully responsive and facilitate prosecution of this application, Applicants elect to prosecute nucleobases 652 through 1064 of the coding region of a nucleic acid encoding Phospholipid Scramblase I (SEQ ID NO:3).

Respectfully submitted,

Jane Massey Licata

Jane Massey Licata
Registration No. 32,257

Date: November 4, 2003

Licata & Tyrrell P.C.
66 Main Street
Marlton, NJ 08053

856-810-1515